

**MEDICAL EXAMINING BOARD
MINUTES
AUGUST 18, 2010**

PRESENT: Carolyn Bronston; James Conterato, MD; LaMarr Franklin (via Live Meeting/excused at 11:58 a.m.); Jude Genereaux; Sujatha Kailas, MD; Jack Lockhart, MD (via Live Meeting); Raymond Mager, DO; Suresh Misra, MD; Ian Munro (excused at 12:08 p.m.), MD; Gene Musser, MD; Sandra Osborn, MD; Sheldon Wasserman, MD

EXCUSED: Jerold Harter

STAFF: Tom Ryan, Bureau Director; Michael Berndt, Legal Counsel; Karen Rude-Evans, Bureau Assistant; other DRL staff

GUESTS: Anne Hletko, Council on Physician Assistants; Mark Grapentine, Wisconsin Medical Society; Jeremy Levin, Rural Wisconsin Health Cooperative; Eric Jensen, WAPA; Nevine Mahmoud

CALL TO ORDER

Sujatha Kailas, Chair, called the meeting to order at 8:00 a.m. A quorum of twelve (12) members was confirmed.

APPROVAL OF THE AGENDA

Amendments:

- Item 6h – Request for the FSMB for a site visit
- Item 7d – Report on discussion with UW Physician's Assessment program representatives – insert after page 36
- Additions under Item 8 – Administrative Matters
 - g. FSMB Advocacy Network – Consider Meeting with Congressional Representatives
 - h. Report on the meeting of the Chair and Vice Chair with Secretary Jackson
 - i. Report on MEB Budget
 - i. 2009-2010 Budget Revenue and Expense Information
 - ii. 2011-2012 Budget Estimate of the needs of DRL to meet workload needs of the MEB
- Proposed Stipulations – Inserted after page 234 (closed session)
 - Paul N. Baek, MD – 08 MED 122 and 09 MED 106 – Case Advisor – Musser
 - Kirsten D. Peterson, MD – 10 MED 214 – Case Advisor - Osborn
- Consulting with Legal Counsel (closed session) – Status of Mandamus Petition
- Case Status Report – insert at the end of the agenda packet (closed session)

MOTION: Suresh Misra moved, seconded by Carolyn Bronston, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JULY 21, 2010

Corrections:

- On page 2, under APPROVAL OF MINUTES..., in the motion, correct “June Osborn” to “Sandra Osborn”
- On page 6, under AARA PORTABILITY GRANT..., in the second paragraph, the parenthesis should read: (not in force in Wisconsin)
- On page 12, under JENE VAN DEN HOUT, in the motion, correct “June Osborn” to “Sandra Osborn”
- Under PRESENTATION OF WISCONSIN’S PRESCRIPTION DRUG MONITORING PROGRAM..., after the second paragraph, add “Drs. Munro and Osborn expressed an interest in being involved with the PDMP.”

MOTION: Sandra Osborn moved, seconded by Suresh Misra, to approve the minutes of July 21, 2010 as corrected. Motion carried unanimously.

PRESENTATIONS OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

**JAMES R FULLERTON, PA
07 MED 210**

Attorney Jack Zwieg, DOE, presented a Proposed Stipulation, Final Decision and Order in the disciplinary proceedings against James R. Fullerton, PA. This matter will be deliberated in closed session.

**KENNETH J KURT, DO
10 MED 186**

Attorney Jack Zwieg, DOE, presented a Proposed Stipulation, Final Decision and Order in the disciplinary proceedings against Kenneth J. Kurt, DO. This matter will be deliberated in closed session.

**STEVEN L ARMUS, MD
09 MED 095**

Attorney Jack Zwieg, DOE, presented a Proposed Stipulation, Final Decision and Order in the disciplinary proceedings against Steven L. Armus, MD. This matter will be deliberated in closed session.

**KYLE O MOUNTS, MD
08 MED 318**

Attorney Jack Zwieg, DOE, presented a Proposed Stipulation, Final Decision and Order in the disciplinary proceedings against Kyle O Mounts. This matter will be deliberated in closed session.

ITEMS RECEIVED AFTER MAILING OF AGENDA

PRESENTATION OF PROPOSED STIPULATION, FINAL DECISION AND ORDER

**PAUL N BAEK, MD
08 MED 122 AND 09 MED 103**

Attorney Pam Stach, DOE, presented a Proposed Stipulation, Final Decision and Order in the disciplinary proceedings against Paul N. Baek, MD. This matter will be deliberated in closed session.

**KIRSTEN D PETERSON, MD
10 MED 214**

Attorney Jack Zwieg, DOE, presented a Proposed Stipulation, Final Decision and Order in the disciplinary proceedings against Kirsten D. Peterson, MD. This matter will be deliberated in closed session.

ITEMS FOR BOARD DISCUSSION

FSMB SITE VISIT

The Board discussed the request from the FSMB to visit the Wisconsin Medical Board. Sujatha Kailas will contact the FSMB to discuss their expectations for this meeting.

WIS ADMIN CODE § MED 10

The workgroup will report back to the Board.

**COUNCIL ON PHYSICIAN ASSISTANTS' PROPOSED RULE CHANGE AND
CONSIDERATION OF SCOPE STATEMENT – ANNE HLETKO, CHAIR, COUNCIL
ON PHYSICIAN ASSISTANTS**

Anne Hletko, Chair, Council on Physician Assistants addressed the Board regarding proposed rule changes To Wis. Admin. Code § MED 8.

MOTION: Sandra Osborn moved, seconded by Suresh Misra, to authorize the Department to draft a scope statement for proposed changes to Wis. Admin. Code § MED 8. Motion carried unanimously.

The Legislation Workgroup will meet after the scope statement is presented to the Board.

**REQUEST FOR VARIANCE OF SUPERVISION OF PHYSICIAN ASSISTANTS IN
WIS ADMIN CODE MED § 10 BY RICHARD NEILS**

MOTION: Sheldon Wasserman moved, seconded by Sandra Osborn, to deny the request from Richard Neils for a variance of supervision of physician assistants. Motion carried unanimously.

**REPORT ON DISCUSSION WITH UW PHYSICIAN'S ASSESSMENT PROGRAM
REPRESENTATIVES – SUJATHA KAILAS AND ATTORNEY PAM STACH**

Sujatha Kailas, Gene Musser and Pam Stach met with representatives from the UW Physicians Assessment Program and gave a presentation to the Board. The Board was asked to review the two proposed courses and to provide comments to DOE Attorney Sandra Nowack by September 7, 2010. Attorney Nowack will take the comments back to the UW.

ADMINISTRATIVE MATTERS

October 20, 2010 Meeting at the Medical College of Wisconsin

Tom Ryan and Sujatha Kailas will be visiting the Medical College of Wisconsin next week in preparation of the October 20, 2010 Board meeting.

Sandra Osborn to Chair September Meeting

Sandra Osborn will chair the September 15, 2010 Board meeting

Appointment of Gene Musser to FSMB Re-Entry to Practice Committee

Gene Musser has been appointed to the FSMB Re-Entry to Practice Committee. The Committee's role will be advisory to the Boards regarding requirements for physicians who want to re-enter practice.

**October 29-30 – FSMB Bylaws Committee Meeting – Board to Consider Approval of
Administrator's Attendance**

MOTION: Jude Genereaux moved, seconded by Sheldon Wasserman, to authorize Tom Ryan to participate in the October 29-30 FSMB Bylaws Committee Meeting. Motion carried unanimously.

Regulatory Digest – New Format and Distribution

Dr. Kailas and Tom Ryan will meet with David Carlson, Communications Officer, after the Board meeting to discuss modernizing the Regulatory Digest. There was an internal issue with

the email addresses for licensees and other subscribers, and many did not receive the latest Digest. This has been resolved and the Digest was re-sent.

Invitation by WMS of Gene Musser to Address Council on Ethics on August 20 – Board Review for Approval

Gene Musser has been asked to speak at the WMS Council on Ethics on August 20, 2010 regarding the physicians' duty to report.

FSMB Advocacy Network – Consider Meeting with Congressional Representatives

The Medical Examining Board has received a request from the FSMB Advocacy Network to meet with the Congressional Representatives regarding re-entry into practice. Gene Musser will participating in a FSMB teleconference later this week and will follow up on this issue.

Report on the meeting of the Chair and Vice Chair with Secretary Jackson

Sujatha Kailas, Sandra Osborn and Gene Musser met with Secretary Jackson after the last Board meeting. The discussion centered on the MEB budget, staffing for the MEB Bureau and the DRL website and access to the MEB information.

Report on MEB Budget

- **2009-2010 Revenue and Expense Information**

Tom Ryan reported the MEB revenues come to approximately \$4.1 million. Accurate expense information is not currently available but will be brought to a future meeting.

- **2011-2012 Budget Estimate of the Needs of DRL to Meet the Workload Needs of the MEB**

The information on MEB Bureau expenditures for staffing will need to be extracted from the DRL budget.

SCREENING PANEL REPORT

Carolyn Bronston reported 32 cases were screened, 13 cases were opened and one ten-day letter was sent.

OUTREACH COMMITTEE REPORT – SUJATHA KAILAS

The Outreach Committee members are Sujatha Kailas, Gene Musser, Sandra Osborn and Jude Genereaux. The Committee met with Tom Ryan and David Carlson last month and discussed the October meeting at the Medical College of Wisconsin and the PowerPoint program that may be used by Board members for presentations to outside groups. Board members should receive permission from the Board prior to any outreach presentations.

INFORMATIONAL ITEMS

None.

PUBLIC COMMENTS

None.

OTHER BUSINESS

Many of the Board members completed the paperwork for DRL Wi-Fi access at the last meeting. The Board members reported they are unable to access the Wi-Fi with the information provided to them today. Tom Ryan will follow up with the IT Department.

RECESS TO CLOSED SESSION

MOTION: Carolyn Bronston moved, seconded by Gene Musser, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b), and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll call: Carolyn Bronston-yes; James Conterato-yes; LaMarr Franklin-yes; Sujatha Kailas-yes; Jack Lockhart-yes; Raymond Mager-yes; Suresh Misra-yes; Ian Munro-yes; Gene Musser-yes; Sandra Osborn-yes; Sheldon Wasserman-yes. Motion carried unanimously.

Open session recessed at 10:26 a.m.

RECONVENE IN OPEN SESSION

MOTION: Raymond Mager moved, seconded by Suresh Misra, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 1:23 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

MOTION: Gene Musser moved, seconded by Jack Lockhart, to reaffirm all motions made in closed session. Motion carried unanimously.

FULL BOARD ORAL EXAMINATIONS

NEVINE MAHMOUD, MD

MOTION: Sheldon Wasserman moved, seconded by James Conterato, to deny licensure to Nevine Mahmoud, MD, as she has not met the 12-month residency requirement to the Board's satisfaction. Motion carried. Jack Lockhart dissented.

SHAHIN ZOHOORI, MD

MOTION: Sheldon Wasserman moved, seconded by Raymond Mager, to deny licensure to Shahin Zohoori, MD, as he has not completed the 12-month residency requirement to the Board's satisfaction. Motion carried unanimously.

CONTINUED DELIBERATION ON FULL BOARD ORAL EXAMINATION

TAI A LEE, MD

MOTION: Gene Musser moved, seconded by Ian Munro, to deny licensure to Tai A. Lee, MD, as he has not completed the 12-month residency requirement to the Board's satisfaction. Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

**JAMES R FULLERTON, MD
07 MED 210**

MOTION: Sheldon Wasserman moved, seconded by Suresh Misra, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against James R. Fullerton, MD. Motion carried unanimously.

**KENNETH J KURT, DO
10 MED 186**

MOTION: James Conterato moved, seconded by Sheldon Wasserman, to reject the Proposed Stipulation, Final Decision and Order in the disciplinary proceedings against Kenneth J. Kurt, DO. Motion carried unanimously.

MOTION: James Conterato moved, seconded by Ian Munro, to return the stipulation to the Division of Enforcement and to require Kenneth J. Kurt, DO, to undergo a neuropsychological evaluation to determine if he is competent to practice medicine. Motion carried unanimously.

**STEVEN L ARMUS, MD
09 MED 095**

MOTION: Sheldon Wasserman moved, seconded by Carolyn Bronston, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Steven L. Armus, MD. Motion carried unanimously.

**KYLE O MOUNTS, MD
08 MED 318**

MOTION: Ian Munro moved, seconded by Suresh Misra, to reject the Proposed Stipulation, Final Decision and Order in the disciplinary proceedings against Kyle O. Mounts, MD and return this matter to the Division of Enforcement. Motion carried unanimously.

**PAUL N BAEK, MD
08 MED 122 AND 09 MED 103**

MOTION: Suresh Misra moved, seconded by James Conterato, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Paul N. Baek, MD. Motion carried. Ian Munro abstained.

**KIRSTEN D PETERSON, MD
10 MED 214**

MOTION: Sheldon Wasserman moved, seconded by Ian Munro, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Kirsten D. Peterson, MD. Motion carried. Jack Lockhart abstained.

CONSIDERATION OF COMPLAINTS

09 MED 418

MOTION: Sheldon Wasserman moved, seconded by Carolyn Bronston, to find probable cause to issue a complaint in the matter of **09 MED 418**. Motion carried unanimously.

08 MED 207

MOTION: Sheldon Wasserman moved, seconded by Suresh Misra, to find probable cause to issue a complaint in the matter of **08 MED 207**. Motion carried unanimously.

ADMINISTRATIVE WARNINGS

07 MED 291

MOTION: Jude Genereaux moved, seconded by Sandra Osborn, to issue an Administrative Warning in case **07 MED 291**. Motion carried unanimously.

07 MED 326

MOTION: Jude Genereaux moved, seconded by Suresh Misra, to issue an Administrative Warning in case **07 MED 326**. Motion carried unanimously.

REQUEST FOR WAIVER OF 12 MONTHS OF ACGME APPROVED POST GRADUATE TRAINING BASED ON EDUCATION AND TRAINING

ABHIJIT G SUNNAPWAR, MD

MOTION: Carolyn Bronston moved, seconded by Suresh Misra, to grant the request for a waiver of the 12 months of approved ACGME approved post graduate training to Abhijit G. Sunnapwar, MD. Motion carried unanimously.

PETITION TO REVISE ORDER

**DAVID B GATTUSO, MD
06 MED 380**

MOTION: Sandra Osborn moved, seconded by Jude Genereaux, to adopt the Petition to Revise Order in the disciplinary proceedings against David B. Gattuso. Motion carried unanimously.

ORDER FIXING COSTS

**GERHARD WITTE, MD
DHA CASE # DRL-09-0030/DOE CASE # 05 MED 341**

MOTION: James Conterato moved, seconded by Ian Munro, to adopt the Order Fixing Costs in the disciplinary proceedings against Gerhard Witte, MD. Motion carried unanimously.

MONITORING

THOMAS JOHNSON, MD

MOTION: Carolyn Bronston moved, seconded by Gene Musser, to grant the request for full licensure to Thomas Johnson, MD. Motion carried unanimously.

CASE CLOSINGS

07 MED 314

MOTION: Gene Musser moved, seconded by Carolyn Bronston, to close case **07 MED 314** for insufficient evidence. Motion carried. Sujatha Kailas abstained. Sheldon Wasserman dissented.

09 MED 412

MOTION: Suresh Misra moved, seconded by James Conterato, to close case **09 MED 412** for no violation. Motion carried unanimously.

10 MED 018

MOTION: Sheldon Wasserman moved, seconded by James Conterato, to close case **10 MED 018** for insufficient evidence. Motion carried unanimously.

09 MED 059

MOTION: Jude Genereaux moved, seconded by Sheldon Wasserman, to close case **09 MED 059** for no violation. Motion carried unanimously.

09 MED 048

MOTION: Jude Genereaux moved, seconded by Jack Lockhart, to close case **09 MED 048** for no violation. Motion carried. Suresh Misra dissented.

09 MED 087

MOTION: Sheldon Wasserman moved, seconded by James Conterato, to close case **09 MED 087** for insufficient evidence. Motion carried unanimously.

08 MED 241

MOTION: Suresh Misra moved, seconded by Sandra Osborn, to close case **08 MED 241** for insufficient evidence. Motion carried unanimously.

RATIFYING LICENSES AND CERTIFICATES

MOTION: Gene Musser moved, seconded by Raymond Mager, to ratify all licenses and certificates presented. Motion carried unanimously.

ADJOURNMENT

MOTION: Suresh Misra moved, seconded by Sheldon Wasserman, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:26 p.m.

THE NEXT BOARD MEETING IS SEPTEMBER 15, 2010